

EXHIBIT 2

Case No. 1:21-md-3010 (PKC)

Case No. 1:21-cv-6841 (PKC)

Defendant.

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR LEAVE TO FILE
JOINT AMICUS BRIEF OF PUBLISHER PLAINTIFFS IN OPPOSITION TO
DEFENDANT GOOGLE LLC’S MOTION TO DISMISS THE STATES’ THIRD
AMENDED COMPLAINT**

Plaintiffs Genius Media Group, Inc., The Nation Company, L.P., The Progressive, Inc., on their own behalf and on behalf of those similarly situated (collectively, the “Publisher Class Plaintiffs”), the Direct Newspaper Plaintiffs,¹ and Plaintiffs Associated Newspapers Ltd. and Mail Media Inc. (the “Daily Mail Plaintiffs”) (Publisher Class Plaintiffs, Direct Newspapers Plaintiffs, and the Daily Mail Plaintiffs collectively referred to herein as the “Publisher Plaintiffs”) respectfully request that the Court grant leave to submit a Joint Amicus Brief in Opposition to Defendant Google LLC’s Motion to Dismiss the States’ Third Amended Complaint.

Publisher Plaintiffs request leave to submit a Joint Amicus Brief to provide a publisher-specific perspective on the issues raised by Google’s Motion to Dismiss (ECF 218) the States’ Third Amended Complaint (ECF 195). Publisher Plaintiffs focus on those issues bearing upon the sufficiency of the States’ claims as they relate to the interests of online publishers. A copy of the Proposed Joint Amicus Brief accompanies the Declaration of Philip Korologos in support of the instant motion as such declaration’s Exhibit A.

¹ The “Direct Newspaper Plaintiffs” consist of AIM Media Indiana Operating, LLC, AIM Media Midwest Operating, LLC, AIM Media Texas Operating, LLC, Brown County Publishing Company, Inc. and Multi Media Channels, LLC, Clarksburg Publishing Company, d/b/a WV News, Coastal Point LLC, Eagle Printing Company, Ecent Corporation, Emmerich Newspapers, Incorporated, J.O. Emmerich & Associates, Inc., Delta Democrat Publishing Company, Commonwealth Publishing Company, Inc., Delta Press Publishing Company, Inc., Newton County Appeal Inc., Marion Publishing, Company, Yazoo Newspaper, Co., Inc., Sunland Publishing, Company, Inc., Simpson Publishing Co., Inc., Montgomery Publishing Co., Inc., Franklinton Publishing Co., Inc., Charleston Publishing Co., Inc., Clarion Publishing Company, Inc., Scott Publishing, Inc., Clarke Publishing, Inc., Hattiesburg Publishing, Inc., Tallulah Publishing, Inc., Louisville Publishing, Inc., Kosciusko Star-Herald, Inc., Enterprise-Tocsin, Inc., Grenada Star, Inc., Tate Record Inc., Flag Publications, Inc., Gale Force Media, LLC, HD Media Company, LLC, Journal Inc., Robinson Communications, Inc., Something Extra Publishing, Inc., Rome News Media, LLC, Times Journal, Inc., Neighbor Newspapers, Savannah Publishing Co., Inc., Gould Enterprises, Inc., Union City Daily Messenger, Inc., Weakley County Press, Inc., and Southern Community Newspapers, Inc.

While there “is no governing standard, rule or statute prescribing the procedure for obtaining leave to file an amicus brief in the district court,” an amicus brief usually should be allowed “when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Sec. & Exch. Comm'n v. Ripple Labs, Inc.*, 20 CIV. 10832 (AT), 2021 WL 4555352, at *5 (S.D.N.Y. Oct. 4, 2021) (internal citations and quotation marks omitted). “Other functions served by *amicus curiae* are to provide supplementary assistance to existing counsel and insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *United States v. Gotti*, 755 F. Supp. 1157, 1158 (E.D.N.Y. 1991).

Because the Publisher Plaintiffs provide a unique perspective that will help ensure a “complete and plenary presentation of difficult issues” in this case, *id.*, the Publisher Plaintiffs respectfully request that the Court grant the requested leave. In similar circumstances, this Court routinely grants motions for leave to file amicus briefs. *Ripple Labs, Inc.*, 2021 WL 4555352, at *5 (permitting movants to serve as *amici* in part because they would “provide the Court with a meaningful perspective”); *C & A Carbone, Inc. v. County of Rockland, NY*, 08-CV-6459-ER, 2014 WL 1202699, at *4 (S.D.N.Y. Mar. 24, 2014) (granting motion for leave to file amicus brief where amici’s insights differed from those that previously were examined); *see also AT&T Mobility LLC v. Gonnello*, 11 CIV. 5636 PKC, 2011 WL 4716617, at *2 (S.D.N.Y. Oct. 7, 2011) (Castel, J.) (granting leave for multiple parties to appear as *amici curiae*).

For the reasons stated above, the Publisher Plaintiffs respectfully request that the Court grant its Motion for Leave to file a Joint Amicus Brief in Opposition to Defendant Google LLC's Motion to Dismiss the States' Third Amended Complaint.

This 24th day of March, 2022.

Respectfully submitted,

For the Publisher Class Plaintiffs

/s/ Philip Korologos
BOIES SCHILLER FLEXNER LLP
Philip Korologos
pkorologos@bsfllp.com
BOIES SCHILLER FLEXNER LLP
55 Hudson Yards, 20th Floor
New York, NY 10001
Tel.: (212) 446-2300
Fax: (212) 446-2350

David Boies
dboies@bsfllp.com
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Tel.: (914) 749-8200
Fax: (914) 749-8300

Jesse Panuccio
jpanuccio@bsfllp.com
BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW
Washington, DC 20005
Tel.: (202) 895-7580
Fax: (202) 237-6131

Mark C. Mao
mmao@bsfllp.com
srodriguez@bsfllp.com
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Tel.: (415) 293-6820
Fax: (415) 293-6899

Sabria A. McElroy
smcelroy@bsflp.com
BOIES SCHILLER FLEXNER LLP
401 E. Las Olas Blvd., Suite 1200
Fort Lauderdale, FL 33301
Tel.: (954) 377 4216
Fax: (954) 356-0022

/s/ George A. Zelcs
KOREIN TILLERY LLC
George A. Zelcs
gzels@koreintillery.com
Randall P. Ewing
rewing@koreintillery.com
Marc A. Wallenstein
mwallenstein@koreintillery.com
Jonathon D. Byrer
jbyrer@koreintillery.com
Ryan A. Cortazar
rcortazar@koreintillery.com
KOREIN TILLERY LLC
205 North Michigan Avenue, Suite 1950
Chicago, IL 60601
Tel.: (312) 641-9750
Fax: (312) 641-9751

Stephen M. Tillery
stillery@koreintillery.com
Michael E. Klenov
mklenov@koreintillery.com
Carol L. O'Keefe
cokeefe@koreintillery.com
KOREIN TILLERY LLC
505 North 7th Street, Suite 3600
St. Louis, MO 63101
Tel.: (314) 241-4844
Fax: (314) 241-3525

*Counsel for Publisher Plaintiffs Genius Media
Group, Inc., The Nation Company, L.P., and The
Progressive, Inc.*

/s/ Eric L. Cramer

BERGER MONTAGUE PC

Eric L. Cramer

ecramer@bm.net

Michael C. Dell'Angelo

mdellangelo@bm.net

Caitlin G. Coslett

ccoslett@bm.net

Patrick F. Madden

pmadden@bm.net

Robert Litan

rlitan@bm.net

BERGER MONTAGUE PC

1818 Market St., Suite 3600

Philadelphia, PA 19103

Tel.: (215) 875-3000

Fax: (215) 875-4604

Sophia M. Rios

srios@bm.net

BERGER MONTAGUE PC

401 B Street, Suite 2000

San Diego, CA 92101

Tel.: (619) 489-0300

Fax: (215) 875-4604

Daniel J. Walker

dwalker@bm.net

BERGER MONTAGUE PC

2001 Pennsylvania Ave., NW Suite 300

Washington DC 20006

Tel.: (202) 559-9745

Michael K. Yarnoff

myarnoff@kehoelawfirm.com

KEHOE LAW FIRM, P.C.

Two Penn Center Plaza

1500 JFK Blvd., Suite 1020

Philadelphia, PA 19102

Telephone: (215) 792-6676

*Counsel for Publisher Plaintiff Sterling
International Consulting Group*

For the Direct Newspaper Publishers

/s/ Serina M. Vash
Serina M. Vash
New York Bar No.: 2773448
svash@hermanjones.com
HERMAN JONES LLP
153 Central Avenue, # 131
Westfield, NJ 07090
(404) 504-6516

John C. Herman
jherman@hermanjones.com
HERMAN JONES LLP
3424 Peachtree Road, N.E., Suite 1650
Atlanta, GA 30326
(404) 504-6500

Paul J. Geller
pgeller@rgrdlaw.com
Stuart A. Davidson
sdavidson@rgrdlaw.com
Alexander C. Cohen
Maxwell H. Sawyer
ROBBINS GELLER RUDMAN & DOWD LLP
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
(561) 750-3000

David W. Mitchell
davidm@rgrdlaw.com
Steven M. Jodlowski
sjodlowski@rgrdlaw.com
ROBBINS GELLER RUDMAN & DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058

Paul T. Farrell, Jr.
paul@farrellfuller.com
Michael J. Fuller, Jr.
mike@farrellfuller.com
FARRELL & FULLER, LLC
1311 Ponce De Leon, Suite 202
San Juan, PR 00907
(939) 293-8244

Robert P. Fitzsimmons
bob@fitzsimmonsfirm.com
Clayton J. Fitzsimmons
clayton@fitzsimmonsfirm.com
Mark A. Colantonio
mark@fitzsimmonsfirm.com
FITZSIMMONS LAW FIRM PLLC
1609 Warwood Avenue
Wheeling, WV 26003
(304) 277-1700

Co-Counsel for Plaintiffs AIM Media Indiana Operating, LLC, AIM Media Midwest Operating, LLC, AIM Media Texas Operating, LLC, Brown County Publishing Company, Inc. and Multi Media Channels, LLC, Clarksburg Publishing Company, d/b/a WV News, Coastal Point LLC, Eagle Printing Company, Ecent Corporation, Emmerich Newspapers, Incorporated, J.O. Emmerich & Associates, Inc., Delta Democrat Publishing Company, Commonwealth Publishing Company, Inc., Delta Press Publishing Company, Inc., Newton County Appeal Inc., Marion Publishing, Company, Yazoo Newspaper, Co., Inc., Sunland Publishing, Company, Inc., Simpson Publishing Co., Inc., Montgomery Publishing Co., Inc., Franklinton Publishing Co., Inc., Charleston Publishing Co., Inc., Clarion Publishing Company, Inc., Scott Publishing, Inc., Clarke Publishing, Inc., Hattiesburg Publishing, Inc., Tallulah Publishing, Inc., Louisville Publishing, Inc., Kosciusko Star-Herald, Inc., Enterprise-Tocsin, Inc., Grenada Star, Inc., Tate Record Inc., Flag Publications, Inc., Gale Force Media, LLC, HD Media Company, LLC, Journal Inc., Robinson Communications, Inc., Something Extra Publishing, Inc., Rome News Media, LLC, Times Journal, Inc., Neighbor Newspapers, Savannah Publishing Co., Inc., Gould Enterprises, Inc., Union City Daily Messenger, Inc., Weakley County Press, Inc., and Southern Community Newspapers, Inc.

For Associated Newspapers Ltd.

/s/ John Thorne

John Thorne

**KELLOGG, HANSEN, TODD, FIGEL &
FREDERICK, P.L.L.C.**

1615 M Street, NW, Suite 400

Washington, DC 20036

202 326-7900

jthorne@kellogghansen.com

*Counsel for Associated Newspapers Ltd. and Mail
Media, Inc.*